

ASAP Bylaws

1.0 Purpose:

The Aerospace Safety Advisory Panel (ASAP) is the National Aeronautics and Space Administration's (NASA's) senior safety advisory committee. The Panel was established as an advisory committee under Section 6 of NASA's Authorization Act in 1968, after the Apollo 204 Command and Service Module spacecraft fire. The purpose of the ASAP is to advise the NASA Administrator on risk and safety issues at NASA. The ASAP is comprised of Members and Consultants with extensive experience in research, development and test, and operation of space vehicles and aircraft, as well as the ground systems that support them. With the Panel's expertise, NASA officials have access to information and advice on a broad range of safety issues affecting NASA policies and programs. The full range of the statutory and specific duties of the ASAP are articulated in Section 3 of the Panel's charter. The ASAP is an advisory committee subject to the requirements of the Federal Advisory Committee Act (FACA).

2.0 FACA Requirements:

Through enactment of the FACA of 1972 (5 U.S.C. App §§1 et seq.), the U.S. Congress formally recognized the merits of seeking advice and assistance of our Nation's citizens. At the same time, the Congress also sought to assure that advisory committees:

- a) Provide advice that is relevant, objective, and open to the public;
- b) Act promptly to complete their work; and
- c) Comply with reasonable cost controls and record keeping requirements.

Each Federal agency that sponsors advisory committees must adhere to the requirements established by FACA, as well as those administrative guidelines provided by the General Services Administration's (GSA's) Committee Management Secretariat. FACA requires each agency to appoint a Committee Management Officer (CMO) to oversee the administration of the Act's requirements. Additionally, a Designated Federal Official (DFO) must be assigned to each committee. Every advisory committee must have a current charter outlining its mission and specific duties, and the charter must be renewed every 2 years.

Under FACA, advisory committees must:

- a) Arrange meetings for reasonably accessible and convenient locations and times;
- b) Publish adequate advance notice of meetings in the Federal Register;
- c) Open advisory committee meetings to the public (with some exceptions);
- d) Make available for public inspection, subject to the Freedom of Information Act, papers and records, including detailed minutes of each meeting; and

- e) Maintain records of expenditures.

3.0 Government in the Sunshine Act:

Advisory committee meetings may be closed or partially closed to the public based upon the provisions of the Government in the Sunshine Act of 1976. Examples of meetings that may be closed under FACA are:

- a) Discussions of information the premature disclosure of which would likely frustrate proposed agency action;
- b) Discussions which might compromise national security;
- b) Discussions of matters concerning the agency's participation in pending or anticipated litigation;
- d) Discussions involving consideration of personnel information protected by the Privacy Act (5 U.S.C. 552a).

4.0 GSA Guidelines for Activities Not Covered by FACA:

GSA provides guidance to the agencies regarding activities not covered by FACA. These include:

- a) Meetings to obtain recommendations or advice from one individual;
- b) Meetings with more than one individual to obtain advice of individual attendees and not for the purpose of obtaining group or consensus advice or recommendation;
- c) Meetings between the group and a Federal Official(s) to exchange facts or information;
- d) Meetings of two or more advisory committee members or subcommittee members solely to gather information or conduct research, analyze facts/issues in preparation for a committee meeting, draft position papers for deliberation by a chartered committee;
- e) Meetings of two or more advisory committee members to discuss administrative matters of the committee or to receive administrative information from the Agency.

4.1 Non-FACA Determination Process:

NASA has a process intended to provide review and documentation of determinations that a meeting is a non-FACA meeting consistent with GSA regulations. This process consists of the issuance by the ASAP Executive Director of a Memorandum for the Record for every non-FACA meeting of the Panel 30 days prior to each meeting. The Advisory Committee Management Officer (ACMO) and General Counsel's Office must

concur on this memo. The product of that non-FACA meeting, generally a trip report, must be deliberated at a FACA meeting.

4.2 Fact-Finding Trips:

The ASAP DFO will make an initial determination of the applicability of FACA guidelines with regards to all ASAP fact-finding trips and meeting attendance. The non-FACA determination will be submitted by the DFO 30 days in advance for review and concurrence by the ACMO and the General Counsel's Office.

5.0 Guidelines for the ASAP:

The guidelines expressed in these bylaws apply to the ASAP and the ASAP staff in the Office of Safety and Mission Assurance. Every effort will be made to ensure the currency of these bylaws as federal laws and guidelines change over time.

5.1 Roles and Responsibilities:

ASAP Chairperson:

As Section 5.2.2 of the ASAP charter states, the Chairperson may organize the Panel as he/she deems appropriate to accomplish their statutory duties. The Chairperson and Executive Director communicate frequently to coordinate Panel activities.

Executive Director:

As Section 6.1 of the ASAP charter states, the Executive Director is appointed by the NASA Administrator and serves as the DFO. The Executive Director will serve as the Executive Secretary and Technical Assistant to the Panel. The Executive Director shall have the responsibility for: agenda approval, administration of the affairs of the Panel, general supervision of all arrangements for safety reviews and evaluations, maintaining a written record of all transactions, Panel meeting minutes, and trip reports. The Executive Director must approve all meetings of the Panel, and the Panel may not conduct any meeting in the absence of the Executive Director. The Executive Director may adjourn any meeting whenever he/she determines it to be in the public interest.

The ASAP Executive Director shall ensure that any internal working document drafted by the Panel complies with the spirit and intent of FACA.

Additionally, the Executive Director will prepare and submit at the request of the NASA ACMO an annual report on the ASAP activities, for inclusion in the comprehensive report on advisory committees maintained by GSA.

Staff:

The ASAP staff consists of a Staff Assistant and a Secretary.

5.2 Panel Procedures:

The Panel has historically organized itself in various teams. The Panel has historically created an internal "modus operandi" document outlining fact-finding team structures. This document is similar to the "terms of reference" for various NASA advisory subcommittees or task forces.

The ASAP traditionally attends scheduled NASA program reviews, Certification of Flight Readiness meetings, and Flight Readiness Reviews. In addition to these meetings, the Panel conducts fact-finding visits to NASA Centers and various NASA contractors in the course of their year-long data gathering and annual report writing process. In all, approximately 60 meetings are attended by one or more ASAP members/consultants annually. The output of each meeting is a "Panel-Eyes Only" trip report which is circulated among applicable Panel members/consultants for review/comments and is then subsequently used in the construction of the Panel's Annual Report. Near the end of the calendar year, the ASAP Executive Director collates findings and recommendations from that year's trip reports, and prepares a Composite Trip Report. The ASAP Executive Director provides the Composite Trip Report to the Panel for review prior to conducting a plenary session and those findings and recommendations found significant by the Panel will be included in the ASAP's annual report. Additionally, the Panel is normally called upon to comment on various Agency/Contractor presentations in real-time at the conclusion of a fact-finding trip.

On occasion, the Panel is asked to investigate various safety-related issues within NASA and report back to the Administrator or an appropriate Associate Administrator (AA). The Panel's findings and recommendations may be delivered as an oral report or in the form of written correspondence. The FACA consequences of each of these scenarios will be dealt with separately below.

5.2.1 FACA-Open/Public:

All ASAP meetings in which products from fact-finding visits are analyzed in a deliberative process for the purpose of making recommendations to NASA must be classified as FACA-Open/Public meetings unless an applicable Sunshine Act exception applies. Segments of most, if not all, ASAP Plenary Sessions should fall under the FACA-Open/Public category. Therefore, the applicable segments of plenary sessions must be open to the public and announced in the Federal Register consistent with FACA. The DFO must submit a draft Federal Register Notice (FRN) to the ACMO for concurrence and submission to GSA.

5.2.2 FACA-Closed:

ASAP meetings which meet appropriate Sunshine Act exemptions may be classified as FACA-Closed. Although the actual meeting will be closed, the fact that the meeting is occurring and the basis for closure must be announced in the Federal Register per FACA. The DFO will prepare and submit 30 days in advance of the meeting a "determination memo" for review and approval by the ACMO and the General Counsel's Office.

5.3 Preparation of Annual Report:

The process for the preparation of the Panel's Annual Report is documented in Headquarters Work Instruction (HOWI) 1156-Q-026 Rev A. A copy of this HOWI will be provided to all Panel members.

5.4 Outbrief to Senior Management/Center Directors:

Historically, ASAP fact-finding visits to NASA Centers and NASA Contractors are concluded by a short feedback session with senior management. This "on the spot" feedback is just as valuable to the Agency as formal responses to tasking and the Panel's

Annual Report. In order to comply with FACA regulations, this feedback must be provided as individual, non-deliberative, non-consensus feedback.

5.5 Assignments by NASA Headquarters AAs or Administrator:

Periodic assignments may be requested of the Panel on safety or risk issues. Response from the Panel may come in the form of: oral reports, written reports, or memorandum for the record. In all but a few exceptional cases, these reports fall under FACA guidelines and must be presented in an open or closed FACA meeting/telecon format which must be announced as a FRN.

5.6 Ethics, Conflicts of Interest, and Financial Disclosure:

Members and Consultants to the ASAP are Special Government Employees (SGEs) and are subject to certain Government-wide conflict of interest statutes, ethical standards of conduct regulations, and financial disclosure reporting requirements, even when the committee is not actually meeting. The most commonly applied statute is 18 USC § 208. This law bars employees, including SGEs, from participating personally and substantially in an official capacity in any government matter that would have a direct and predictable effect on their own or their imputed financial interests. In order to comply with the diverse set of conduct and ethics regulations, ASAP Members/Consultants will receive annual training as well as periodic counseling via the DFO. All Members/Consultants will be required to complete an OGE Form 450, Financial Disclosure Report, or Form 278, Public Financial Disclosure Report, which must be reviewed by the DFO and the General Counsel's Office. In most cases, advisory letters will be sent to ASAP SGEs regarding investment portfolio holdings and it is incumbent upon the Members/Consultants and DFO to understand when issues under review have the potential to create a conflict and how to avoid it.

5.7 Recordkeeping:

The ASAP Office, in accordance with statutory and regulatory responsibilities, shall:

- a) Maintain an active program for continuous management of ASAP records throughout their lifecycle per NPD 1440, NASA Records Management, and NPG 1441, NASA Records Retention Schedules. This includes, but is not limited to: copies of charters, membership lists, agendas, policy statements, reports, and other material required to be available for public information;
- b) Establish safeguards against unauthorized removal or destruction of records. ASAP records are stored in a locked conference room (5W63) located in the NASA OSMA;
- c) The ASAP Office records schedule is on file with the ASAP Secretary and has been approved by the NASA Records Management Officer. Records not covered by the ASAP records schedule are to be handled in accordance with NPG 1441 and the General Records Schedule; and
- d) Conduct annual self-evaluations of the ASAP records management program.


5.8 ASAP (Code Q-1) Homepage:

The ASAP Executive Director shall maintain a publicly accessible website located at: <http://www.hq.nasa.gov/office/codeq/codeq-1.htm> which contains both background information on the ASAP and electronic copies of ASAP Annual Reports, FACA meeting minutes as well as future meeting announcements.

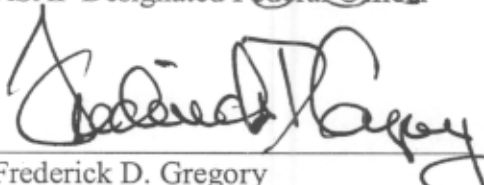
5.9 Annual Training:

Code Q-1 policy is for all members of the ASAP staff to be cognizant of all FACA and Ethics regulations pertaining to the Panel and where to seek advice should circumstances require it. To this end, each member of the staff will attend formal FACA and ethics management training once every three years.

All Panel Members/Consultants will receive an initial FACA and ethics compliance briefing upon appointment to the Panel as well as refresher training on an annual basis. Periodic FACA and ethics compliance reminders shall be distributed by the Executive Director via the ASAP Weekly Status Report.


David M. Lengyel
ASAP Designated Federal Officer


8/27/01
Date


Frederick D. Gregory
Associate Administrator
for Safety and Mission Assurance

5 Sep 01
Date


Laura Giza
Office of General Counsel

8/29/01
Date


Beth M. McCormick
Agency Committee Management Officer

9/4/01
Date